

SENATE BILL 1149
By Herron

AN ACT to amend Tennessee Code Annotated, Title 56, relative to the liability of managed care entities following withdrawal from the TennCare program.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 56, is amended by adding Sections 2 and 3 of this act as a new, appropriately designated chapter.

SECTION 2. As used in this act, a "managed care entity" means a health insurer, administrative services organization, health maintenance organization or any other entity that delivers, administers or assumes risk for healthcare services that are covered in whole or in part by the TennCare program under Tennessee Code Annotated, Title 71; provided, "managed care entity" does not include:

(1) An employer purchasing healthcare coverage, (on behalf of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer), from an independent contractor-managed care entity;

(2) An employer group purchasing organization purchasing healthcare coverage, (on behalf of its member-employers), from an independent contractor-managed care entity;

(3) An employer having (for the benefit of its employees or the employees of one or more subsidiaries or affiliated corporations of the employer), a self-funded healthcare plan administered by an independent contractor-managed care entity;

(4) An employee association or other membership organization having (for the benefits of its members), a self-funded healthcare plan administered by an independent contractor-managed care entity;

(5) A pharmacy licensed by the state board of pharmacy; or

(6) The state of Tennessee.

SECTION 3.

(a) Any managed care entity that terminates its participation in the TennCare program has the duty to its enrollees to exercise ordinary and reasonable care when discontinuing services, or withdrawing coverage of services, as a result of the termination of its TennCare participation. The managed care entity's duty of ordinary and reasonable care in such circumstances includes, but is not limited to, a duty to implement adequate individualized discharge planning, for the purpose of protecting an enrollee from injury due to disruption or interruption of the enrollee's care.

(b) Any managed care entity that terminates its participation in the TennCare program is liable for damages for harm to an enrollee or former enrollee which is proximately caused by the managed care entity's failure, or a failure by its employees, agents, contractors, or representatives, to exercise ordinary and reasonable care when discontinuing services, or coverage of services, as a result of the termination of its TennCare participation.

(c) A managed care entity that terminates its participation in the TennCare program is liable for damages for harm to an enrollee or former enrollee which is proximately caused by any other act or omission by or on behalf of the managed care entity, its employees, agents, contractors or representatives, which occurs as a result of,

or in furtherance of, the managed care entity's discontinuation of services, or coverage of services, due to the termination of its TennCare participation, if:

(1) such act or omission left the enrollee or former enrollee without due notice of the organization's intent to leave the TennCare program; or

(2) such act or omission left the enrollee or former enrollee without an opportunity, which is adequate in light of the enrollee's or former enrollee's circumstances and medical condition, for the enrollee or former enrollee to obtain TennCare covered services from another managed care entity or its contractors.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.